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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/985,974	11/07/2001	Jorge D. Brioni	6753.US.02	4598

7590

09/10/2002

Steven F. Weinstock  
Abbott Laboratories  
D-377/AP6D  
100 Abbott Park Road  
Abbott Park, IL 60064-6050

EXAMINER

BAHAR, MOJDEH

ART UNIT

PAPER NUMBER

1617

DATE MAILED: 09/10/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/985,974

Applicant(s)

BRIONI ET AL.

Examiner

Mojdeh Bahar

Art Unit

1617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 August 2002.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) 1,5,15-22,26 (all in part), 3,7,10,13,24,28,30 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,5,15-22,26 (all in part), 2,4,6,8,9,11,12,14,23,25,27,29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.                      6) ☐ Other:

### DETAILED ACTION

Applicant's response to the restriction requirement submitted August 14, 2002 is acknowledged. Applicant's election therein of the invention of Group I, claims 1, 5, 15-22 and 26 (all in part) and claims 2, 4, 6, 8-9, 11-12, 14, 23, 25, 27 and 29 is acknowledged. Note that in his response attorney has erroneously recited claim 2 twice, claim 16 instead of claim 14, and claim 39 instead of claim 29 as part of Group I.

Claims 1, 5, 15-22 and 26 (all in part), 3, 7, 10, 13, 24, 28 and 30 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to non-elected inventions.

Election is considered to have been made **without** traverse in Paper No. 7, because no traversal or reasons for traversal have been stated.

Claims 1, 5, 15-22 and 26 (all in part) and claims 2, 4, 6, 8-9, 11-12, 14, 23, 25, 27 and 29 are herein examined on the merits.

### *Claim Objections*

Claim 1 is objected to because of the following informalities: The claim is not numbered. Appropriate correction is required.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 1, 5, 22 and 26 (all in part), 2, 4, 6, 8, 9, 11, 12, 14, 23, 25, 27, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Glase et al. and Zorn et al. in view of Sanner (USPN 5,714,487).

Glase et al. Teaches that CP-226,629 is a D4 receptor agonist. Zorn et al. Teaches that N-[[4-(2-cyanophenyl)-1-piperazinyl]methyl]-3-methyl Benzamide is a known selective D4 receptor agonist, see particularly Table 1, compound 6.

Glase et al. and Zorn et al. Taken together do not teach that D4 receptor agonists are useful in treating male erectile dysfunction.

Sanner (USPN 5,714,487) teaches that Dopamine D-4 receptors may be beneficial in controlling vascular blood flow, see col.2, lines 1-3.

It would have been obvious to one of ordinary skill in the art to employ a D4 receptor agonist in a method of treating erectile dysfunction.

One of ordinary skill in the art would have been motivated to employ the claimed compounds in a method of treating erectile dysfunction because both are known D4 receptor agonists. Furthermore given the vasodilatory effect on Dopamine in general and D4 receptors in particular and that vasodilators are known to be useful in treating ED, the skilled artisan would reasonably expect similar therapeutic effects from D4 receptor agonists in treating ED.

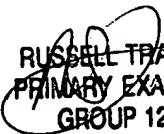
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mojdeh Bahar whose telephone number is (703) 305-1007. The examiner can normally be reached on (703) 305-1007 from Monday, Tuesday, Thursday and Friday from 8:30 a.m. to 6:30 p.m.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Minna Moezie, J.D., can be reached on (703) 308-4612. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-4556.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

Mojdeh Bahar  
Patent Examiner  
September 3, 2002

  
RUSSELL TRAVERS  
PRIMARY EXAMINER  
GROUP 1200